IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION NO : 14807 of 1999

Between:

A.Ravi Shankar Prasad. S/o. A.Ananda Rao.
R/o. C-19, Film Nagar, Junilee Hills,
Hyderabad.

..... PETITIONER

AND

1 The Prl.Secretary to Govt., Revenue Department,
Secretariat, Hyderabad.
2 The Special Officer and Comptent Authority,

Urban Land Ceilings, Hyderabad.
3 The Commissioner, Urban Land Ceilings,
Hyderabad.
4 The Vice-Chairman, Hyderabad Urban

Development Authority, Paigah Palace,

Rasoolpura, Secunderabad.
5 The District Collector, Ranga Reddy District.
6 The Mandal Revenue Officer,

Serilingampally Mandal, Ranga Reddy Dist.
7 The Commissioner, Serilingampally Municipality,
Ranga Reddy District.

..RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the actions of the respondents is resorting to cancelling the already approved draft layout in permit No. 876/MP/HUDA/96, dated 22/08/1996 Guttala Begumpet Village, Serilingampally, Rangareddy District and not releasing the final layout even after completion of all the works to an extent of Ac.5-00 guntas is arbitrary, illegal, unjust and improper and consequently to direct the respondents to issue final layout to the petitioner as per draft approval in permit No.876/MP2/HUDA/96, dated 22/08/1996.

Counsel for the Petitioner:MR.C.HANUMANTHA RAO, Advocate

Counsel for the Respondents 1, 5 & 6: GP FOR REVENUE

Counsel for the Respondent No.4 : MR. T.NIRANJAN REDDY, SC for HUDA.

The Court made the following :

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O R D E R :

The petitioner filed the writ petition assailing a show cause notice bearing letter No.876/MP2/HUDA/96, dated 11-5-1999 whereby and whereunder the petitioner was called upon the show cause as to why the draft layout approval issued in his favour vide letter No.876/MP2/HUDA/96, dated 22-8-1996 should not be cancelled and withdrawn, allegedly for the reason that the site under reference is declared as 'Core Area' for which Urban Land Ceiling (ULC) clearance is required.

The petitioner claims that he has purchased an extent of Acs.5-00 of agricultural land comprised in Survey No.10 of Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District, under a registered sale deed. On 8-2-1996 the petitioner made an application under sub-section (7) of Section 13 of Andhra Pradesh Urban Areas (Development) Act,1975 (for short 'the Act') seeking approval of layout for conversion of the land into housing plots. The third respondent, after considering the layout, gave draft approval vide permit No.876/MP2/HUDA/96, dated 22-8-1996. In the draft approval, the following conditions were imposed.

1. The applicant should take permission from Urban Land Ceiling Authority wherever necessary.
2. This is a Tentative/Draft Layout. The Final layout will be considered only after all the layout development works are completed as prescribed in Letter No.876/M&R/HUDA/96.
3. This Draft Layout approval does not confer or affect the ownership of the site. Authenticity of ownership/boundary is the responsibility of the applicant.
4. This approval does not bar the application of the provisions of the Urban Land (Ceiling & Regulations) Act,1976 to the above land.
5. The open spaces towards parks shall be shown at the time of release of final layout as per Rules and Regulations and as per the discretion of the office.
6. This is only a tentative layout. Sale of plots are not permitted till the final layout is released by HUDA.

After obtaining the draft approval for the layout in respect of the land, the petitioner states that he has completed all developmental works like providing of roads, water and drainage facilities. During the period 1996 to 1998 the petitioner sold the plots to as many as forty seven (47) third parties under registered sale deeds. It is also alleged that all the purchasers are in actual possession of the land.

The third respondent issued the impugned notice on 11-5-1999, which reads as under.

With reference to your application 1st cited, draft layout in Sy.No.10 of Guttala Begumpet(V) was released and communicated through the reference 2nd cited under G.O.Ms.No.733, Revenue dt.31-10-

1988 i.e., treating the village as peripheral area.

The Government in Revenue Department, vide reference 3rd cited, have issued orders declaring the Guttala Begumpet village as 'Core Area' and the G.O.Ms.No.733, Revenue dt.31-10-1988 is not applicable to Guttala Begumpet village and any sale deed executed in this area after 1976 is invalid. As per Section 53 of U.L.C. Act, all the transactions are null and void, till the land owners files declaration before the Urban Land Ceiling Authority.

As per the above Memo the U.L.C. clearance is required for the layout approval in the Guttala Begumpet village.

Therefore, you are hereby called upon to show-cause as to why the draft layout approval issued vide reference 2nd cited should not be cancelled and withdrawn. Since, the site under reference is declared as 'Core Area' for which the U.L.C. clearance is required.

Your reply should reach the undersigned within 15 days failing which action will be taken to cancel the draft layout approval.

The petitioner submitted explanation on 7-6-1999 disputing the contention that ULC clearance is required. The petitioner also contended that as per Government Orders vide G.O.Ms.No.733, Revenue (UC-II) Department, dated 31-10-1988 the land in the peripheral area stands exempted from the provisions of Urban Land (Ceiling & Regulations) Act,1976. While the explanation was under consideration, apprehending that the third party interests would be prejudicially effected, he filed the present writ petition challenging the show-cause notice and for a consequential direction to the respondents to release a final layout in respect of the land in Survey No.10 of Guttala Begumpet Village, Serilingampally Mandal, Ranga Reddy District. This Court admitted the writ petition on 19-7-1999 and passed interim orders on the same date in W.P.M.P.No.18182 of 1999 staying all further proceedings pursuant to the impugned show-cause notice.

A counter affidavit is filed opposing the writ petition. Though the submission of application for the layout and the grant of tentative approval of the layout are not denied, it is stated that after the Draft layout was released, the Government of Andhra Pradesh issued a Memo No.18927/UC-II(2)/97-3, Revenue, dated 20-11-1997 wherein Madhapur and Guttala Begumpet Villages are shown as falling within the Hyderabad Urban Agglomeration to which G.O.Ms.No.733, dated 31-10-1988 is not applicable, therefore, the impugned show-cause notice was issued proposing to cancel/withdraw the layout approval given to the petitioner. It is also alleged that the petitioner has not completed all the development works and requested for extension of time on two occasions in May and November, 1998. The extension was granted to the petitioner to complete the balance of works and in spite of that the petitioner failed to complete the works. It is further stated that as per the conditions of the layout, unless and until final layout approval is granted, the petitioner is not entitled

to sell away the plots and, therefore, the petitioner has violated the conditions of layout by selling the land to third parties.

I have heard learned counsel for the petitioner. He placed reliance on Section 32 of the Act. The learned counsel also placed reliance on an unreported judgment of a learned Single Judge of this Court in W.P.Nos.9478 and 9485 of 1999, dated 28-7-2000 in support of the contention that the HUDA has no authority to cancel the layout. According to the learned counsel, in the event of non-completion of the developmental works, Urban Authority has to issue a notice to the Developer to provide the required amenities and on failure to do so, the Authority itself has to carryout the development works.

Per contra, learned Standing Counsel for HUDA, submits that the writ petition against a show-cause notice is not maintainable and that the HUDA is justified in issuing the impugned show-cause notice.

It is now axiomatic that a writ petition ordinarily would not lie against a show-cause notice. A reference may be made to **State of U.P. v. Shri Brahma Datta Sharma and this Court in Special Officer, Urban Land Ceiling v. M. Vijaya Lakshmi, K.Veerabhadrudu v. Spl. Dy. Collector, Tribal Welfare.**

As the writ petition is filed at the stage of a show-cause notice, this Court at present is not inclined to decide the question whether the HUDA has any power or authority to cancel the layout at the initial stages. It would be appropriate if HUDA considers this question also in proper perspective.

As the petitioner had already filed explanation on 7-6-1999, the writ petition is disposed of directing the fourth respondent-HUDA to pass appropriate orders in the matter, after giving opportunity to the petitioner or petitioner's counsel of being heard. This exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order. The petitioner may approach the fourth respondent with a copy of this order. It shall also be open to the petitioner to file additional explanation along with necessary material, within a period of one week from the date of receipt of a copy of this order. There shall be no order as to costs.

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(V.V.S. RAO, J.)

20-07-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Prl.Secretary to Govt., Revenue Department,
Secretariat, Hyderabad.
2 The Special Officer and Comptent Authority,

Urban Land Ceilings, Hyderabad.
3 The Commissioner, Urban Land Ceilings,
Hyderabad.
4 The Vice-Chairman, Hyderabad Urban

Development Authority, Paigah Palace,

Rasoolpura, Secunderabad.
5 The District Collector, Ranga Reddy District.

6 The Mandal Revenue Officer,

Serilingampally Mandal, Ranga Reddy Dist.
7 The Commissioner, Serilingampally Municipality,
Ranga Reddy District.

8.2CCs to Government Pleader for Revenue, High Court of

of A.P., Hyderabad.

9.2CD copies